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Amendment & Response to
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Action and that no issues relating to patentability relate to them other than the single issue identified therein; i.e., a defective oath.

In order to expedite the prosecution of this reissue application and to decrease the cost, Applicants request that the Preliminary Amendment *not* be entered into the record. Instead, Applicants request the entry of the two claims set forth above (and attached). That is, new claim 48 above is the same as claim 48 in the Preliminary Amendment and similar to examined claim 22 (except that new claim 48 does not require a hydrocarbon solvent as does claim 22). Also, new claim 49 is the same as claim 55 in the Preliminary Amendment and is essentially directed to a method of making the microcapsules of claim 48 above. It is believed that all other claims in the Preliminary Amendment are covered by the two new claims set forth above. Support for new claims 48 and 49 may be found in the reissue application, for example, at col. 1, lines 6-10.

In the Office Action, claims 1-47 stand rejected under 35 U.S.C. § 251 for allegedly being based upon a defective declaration. Without acceding to the correctness of the Examiner's position, Applicants respectfully submit herewith for consideration an executed supplemental reissue declaration under 37 C.F.R. § 1.175. Said supplemental declaration (i) contains a statement that the Applicants believe that the original patent is wholly or partly inoperative or invalid; (ii) identifies at least one error which is relied upon as support for the reissue application; and (iii) contains a statement that all errors which are being corrected in the reissue application up to the time of filing of the oath/declaration arose without the deceptive intention on the part of the Applicants. Acknowledgement that the supplemental reissue declaration is acceptable is respectfully requested.

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In view of the submission of the declaration in accordance with 37 C.F.R. §1.175 and the remarks presented above, Applicants respectfully submit that the pending claims are in condition for allowance.

The Examiner further indicated in the Office Action that the original patent must be surrendered or an affidavit (indicating that such can not be found) must be filed. Either the original patent or the appropriate affidavit will be filed shortly.

The Commissioner is hereby authorized to charge any fees under 37 CFR §§1.16 and 1.17 that may be required in filing this paper to Deposit Account No. 06-1440, as well as any other fees necessary under such sections to maintain the pendency of this application.

If, in the opinion of the Examiner, a telephone conference with the undersigned would facilitate prosecution of this patent application, the Examiner's call would be welcomed.

Respectfully submitted,

Date: February 19, 2001

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